

1 Q Okay. I just want to know if you  
2 personally, sitting here today, can tell me any  
3 more about what it is the company -- the  
4 companies -- sorry, RadioShack and SCK, want and  
5 why they want it in this lawsuit.

6 A Bob, you lost me.

7 Q Okay. Fair. I'm glad you -- okay.

8 The lawyers, of course, know what it  
9 is the two companies want in this lawsuit and  
10 why they should get it, right?

11 A Yes.

12 Q I'm asking if you know any more than  
13 you've told me now about that.

14 A No, I don't.

15 Q Okay. So we've exhausted your  
16 personal knowledge on that?

17 A Yes.

18 Q All right. Fair enough.

19 Sir, I believe you told me that Judy  
20 McCampbell's first reaction was there's no  
21 action items for us on the tornado. Warehouse  
22 86 and IDI will handle that.

23 A It would be a claim between the two.

24 Q Okay. But did I get the idea that you  
25 later -- or she later had a different thought?

1

1 Q Okay. And they ended up getting the  
2 two million something that we're fighting about,  
3 right?

4 A Yes.

5 Q Okay. My question is, do you know  
6 whether RadioShack ever got involved in that  
7 process --

8 MR. WATT: Objection.

9 MR. FREY: (Continuing.)

10 Q -- between Warehouse 86 and its  
11 insurance company?

12 A I don't recall.

13 MR. FREY: Okay. Let me go off  
14 the record for a second.

15 (Off the record.)

16 MR. FREY: (Continuing.)

17 Q Sir, y'all's lawyer sent a subpoena to  
18 the Marchetti, M-A-R-C-H-E-T-T-I, Insurance  
19 Agency and got some documents back. Okay?

20 A Okay.

21 Q I'm going to show them to you and you  
22 can look at all of them, but I'm going to ask  
23 you about the one that's numbered Page 80.

24 A Eighty?

25 Q Yes. I just want to see, is this the

1 A I do not.

2 Q Sir, do you know anything about the  
3 lease being canceled, the prime lease?

4 A I do not.

5 Q Or the sublease being canceled?

6 A I do not.

7 Q Let me go back. How did y'all hear  
8 about the fire?

9 A Bob, I don't recall.

10 Q Okay. Can I see that Marchetti  
11 document?

12 A (Witness complies.) But I do remember  
13 seeing it on the news.

14 Q The fire, too?

15 A Yeah.

16 Q There is a company called McLarens  
17 Young who was involved in handling the loss. Do  
18 you know anything about them, who they were  
19 working for?

20 A McLarens Young is written into our  
21 property insurance policy with Liberty Mutual.  
22 They're an adjuster firm.

23 Q What do they do?

24 A They're an adjusting firm.

25 Q What does that mean?

1

1

1 Q Okay. What did RadioShack own that  
2 was damaged by the tornado?

3 A The -- the alarm system.

4 Q Okay. And that was the same as the  
5 security system?

6 A The security system.

7 Q Okay. And it was damaged by the  
8 tornado?

9 A I believe so.

10 Q Okay. Who would know for sure?

11 A McLarens Young International.

12 Q Okay. Anything else that RadioShack  
13 owned that was damaged by the tornado?

14 A Bob, if you would clarify "owned" for  
15 me.

16 Q Well, I will if I can. What do you  
17 mean when you use the word "owned"?

18 A Like on our books? Is that what --  
19 like assets written on our books?

20 Q Well, that would be one thing.

21 A Okay.

22 Q The security system was on your books.  
23 You had to write them off. I understand.

24 A That would be what we owned. Yeah.

25 Q Okay. And as far as the fire, do you

1 Q All right. And who would we ask if we  
2 just wanted to make sure?

3 MR. WATT: Objection.

4 A It's in the documents that we provided  
5 for you.

6 MR. FREY: (Continuing.)

7 Q Okay. What documents would we be  
8 looking at?

9 A The invoices.

10 Q The ones that you were responsible for  
11 paying out?

12 A Yes.

13 Q So it's the same four things?

14 A I believe so.

15 Q All right. And let me just close the  
16 loop on that. Back when I was asking you about  
17 those invoices, I was asking you what you  
18 personally had handled. Okay? Are there any  
19 other things that RadioShack or SCK wants to be  
20 paid for besides the four you've named, even if  
21 you didn't personally handle them?

22 A I don't recall.

23 Q As far as you know, the --

24 A As far as I know.

25 Q The answer is no, as far as you know?

1 A The answer is I don't recall.

2 Q Okay. But sitting here today, you  
3 only know of four things that RadioShack and SCK  
4 wanted to be paid for and you've told us what  
5 they are?

6 MR. WATT: Objection.

7 MR. FREY: (Continuing.)

8 Q Is that fair?

9 A No, it's not fair. I don't have all  
10 the documents in front of me. To the best of my  
11 recollection, those are the items --

12 Q Okay.

13 A -- that I can recall right now.

14 Q What would you look at to be sure?

15 A I'd just have to look at the files  
16 again.

17 Q All right. Well, what files?

18 A Some of the invoices that I -- some of  
19 the files that you have here in front of you.  
20 I'd have to take my time and look through those  
21 again to give you a definite answer.

22 Q Well, you said earlier you don't have  
23 all the files in front of you. Really, you've  
24 got them. You just haven't looked at them?

25 A Well, yeah. Just --

1 Q There's not --

2 MR. WATT: Objection.

3 MR. FREY: (Continuing.)

4 Q I'm sorry. I want to -- I'm trying to  
5 figure out are there documents that aren't in  
6 this room that you'd have to look at?

7 A I don't know.

8 Q Did anybody, whether it's RadioShack  
9 or IDI or somebody else, get paid anything from  
10 any insurance company for the conveyer system?

11 MR. WATT: Objection.

12 MR. FREY: Can you tell me what  
13 the problem is?

14 MR. WATT: I don't understand the  
15 question. I mean, it seems pretty  
16 broad. It sounds overly broad and  
17 confusing.

18 MR. FREY: I don't think that  
19 you're confused is an objection.

20 MR. WATT: I said the question is  
21 confusing.

22 MR. FREY: Okay. Well, the  
23 witness has already told me that if he  
24 doesn't understand it, he'll tell me.  
25 So it's not an appropriate objection

1

1 to say you think it's confusing. If  
2 he's confused, he'll tell me.

3 MR. WATT: I'm not going to argue  
4 with you. I've stated an objection.  
5 You asked me the basis of it and I  
6 explained it.

7 MR. FREY: Well -- and now, I'm  
8 suggesting that that's an improper  
9 objection.

10 MR. WATT: Okay.

11 MR. FREY: (Continuing.)

12 Q Did anybody get paid anything from any  
13 insurance company for the conveyer system?

14 A Ask that question again. I'm sorry.

15 Q Did anybody get paid anything from any  
16 insurance company for the conveyer system?

17 A No. To the best of my knowledge, no.

18 Q Do you know whether any of the money  
19 Employers Mutual paid was for the conveyer  
20 system?

21 A I do not.

22 Q IDI had their own insurance company,  
23 right?

24 A I don't know.

25 Q Okay. RadioShack had their own,

3



56

1 right?

2 A Yes.

3 Q And that was Liberty?

4 A Yes.

5 Q Okay. Did Liberty pay anything for  
6 the conveyer system?

7 A No.

8 Q Did y'all make a claim for it?

9 A No. With Liberty?

10 Q Yes, sir. With Liberty.

11 A No.

12 Q Can you tell me why not?

13 A Because there's no claim between  
14 RadioShack and Liberty. The claim is between  
15 Warehouse 86 and RadioShack. Warehouse 86  
16 should make RadioShack whole for all the damages  
17 sustained.

18 Q Now, I want to be fair with you. I  
19 asked earlier if you knew more about the basis  
20 for the company's positions, and you told me  
21 that wasn't your area.

22 A Yes.

23 Q Is it true it's also not your area to  
24 explain the basis for what you just said, y'all  
25 should be made whole for everything?

1

1

1 MR. WATT: Objection.

2 MR. FREY: (Continuing.)

3 Q If you know more about the basis, I'll  
4 ask you. And if you don't, I won't.

5 MR. WATT: Objection.

6 MR. FREY: (Continuing.)

7 Q Do you understand what I'm asking?

8 A I do.

9 Q Okay. You said that it's y'all's  
10 position that you should be made whole for  
11 everything, right?

12 A Yes.

13 Q Okay. But if I asked you show me that  
14 in the sublease or show me that somewhere else,  
15 that wouldn't be your area?

16 A That would not be my area.

17 Q Okay. So you know the position, but  
18 you're not prepared to discuss the support?

19 A That's right.

20 Q , All right.

21 THE WITNESS: Bob, I'm going to  
22 have to take another break.

23 MR. FREY: Sure.

24 (Off the record.)

25

1 MR. FREY: (Continuing.)

2 Q Sir, it's going to be the same  
3 question as to the IDI betterments. Do you know  
4 if any insurance company paid anything to them?

5 A Yes. Liberty Mutual paid IDI.

6 Q Do you know how much they paid?

7 A I don't know the exact amount, Bob.  
8 It should be in the file.

9 Q Is it like 400 something grand?

10 A It's about 900,000.

11 Q Nine hundred.

12 And I take it that wasn't enough?

13 MR. WATT: Excuse me. Objection.

14 MR. FREY: (Continuing.)

15 Q Well, you don't want to get paid  
16 twice, so what's the difference between the 900  
17 sum Liberty paid and the amount that y'all want?

18 A We subsequently paid the deductible.

19 Q What was the deductible?

20 A Two occurrences of 250,000 each.

21 Q That was the 500 you mentioned  
22 earlier?

23 A Yes.

24 Q And what are the betterments?

25 A You know, I can't tell you offhand,

1

1 but I did see it in the report and it had the  
2 list of the betterments and improvements.

3 Q Whose report, McLarens'?

4 A Yes, McLarens'.

5 Q And just by general description, what  
6 are we talking about, stuff that y'all built  
7 into the warehouse like offices?

8 A I believe so, Bob.

9 Q All right.

10 A Plywood, Sheetrock.

11 Q Okay.

12 A Plumbing.

13 Q And then do you know if any insurance  
14 company paid anything for the alarm security  
15 system?

16 A I do not.

17 Q Sir, I'm looking at y'all's complaint  
18 in there and there are some allegations in here  
19 about what the sublease says and Section 7 of  
20 Schedule B to the sublease. You're not prepared  
21 to discuss that stuff today, are you?

22 A I'm not.

23 Q In fairness, that's not your area?

24 A That's right.

25 Q Have you ever seen a breakdown of the

1 amounts that Employers Mutual paid --

2 A I have not.

3 Q -- that add up to the two-something  
4 million that's in the registry of the court that  
5 we're fighting over?

6 A I don't recall.

7 Q You know what amount I'm talking  
8 about, the amount Employers Mutual paid?

9 A I have not seen a breakdown.

10 Q All right. Well, let me back up. You  
11 know Employers Mutual paid a little over  
12 two million, right?

13 A I do.

14 Q And it paid it jointly to Warehouse 86  
15 and to SCK?

16 A Yes.

17 Q Because SCK was a lost payee, right?

18 A Yes.

19 Q Okay. Do you know what they paid for?

20 A I do not.

21 Q And do you know whether either  
22 RadioShack or SCK had an interest in any of the  
23 things that they paid for?

24 A I don't know what they paid for --

25 Q Right.

1  
3  
1

1 A -- so I wouldn't know --

2 Q It would follow logically -- yeah, I  
3 understand.

4 Sir, one of the things that your  
5 company's filed in the lawsuit -- and it's  
6 Docket 36 for your lawyer -- says that Warehouse  
7 86 influenced the final allocation of the  
8 insurance proceeds, that is, the amount that  
9 Employers Mutual paid and what they paid it for.

10 A Okay.

11 Q Do you know anything about that?

12 A About the influence or --

13 Q Yes, sir.

14 A No.

15 Q Then it goes on and it says that your  
16 company disputes various aspects of the  
17 Employers Mutual allocations. Okay. It says,  
18 for example, the leasehold improvements were  
19 only damaged to 174,000 and apparently Employers  
20 Mutual said more. Do you know anything about  
21 that?

22 A No, sir.

23 Q And it says that all the damage to the  
24 leasehold improvements was caused by fire, and I  
25 take it that Employers Mutual said some were

1 tornado. Do you know anything about that?

2 A No.

3 Q You don't know about anything like  
4 that, about whether Employers Mutual paid the  
5 right amount for the right thing?

6 A I don't recall any of that.

7 Q Some of the things that your companies  
8 have filed also say that Warehouse 86 should not  
9 have been involved in adjusting the loss. Do  
10 you know anything about that?

11 A No.

12 MR. WATT: Objection.

13 MR. FREY: Well, can you help me  
14 with that?

15 MR. WATT: I think that's a  
16 mischaracterization of what's been  
17 alleged.

18 MR. FREY: Well, can you say it  
19 in a way that it's fair and get to the  
20 bottom of it?

21 MR. WATT: I think instead of  
22 referring to what you think RadioShack  
23 may have alleged, just simply ask him  
24 if he is aware of any wrong influence  
25 or whatever, but I'm just not sure

1           that we have alleged that Warehouse 86  
2           wrongfully participated in the claim  
3           adjustment. That sounded as if what  
4           you were asking.

5           MR. FREY: All right. Let me try  
6           it this way.

7           MR. FREY: (Continuing.)

8           Q     Page 10 of Document 36, which y'all  
9           filed says, quote, The debtor -- that's  
10          Warehouse 86 -- impermissibly adjusted claims  
11          regarding the subleased equipment without  
12          plaintiffs' -- that's y'all -- participation and  
13          consent. My question is, do you know anything  
14          about that?

15          A     I don't recall it.

16          Q     Okay.

17          MR. WATT: Thank you.

18          MR. FREY: Is that fair?

19          MR. WATT: Yeah. That's a  
20          different question. Thank you.

21          MR. FREY: Okay. All right.

22          MR. FREY: (Continuing.)

23          Q     Well, just to make sure we're not  
24          confused, the same document, Document 36, Page 9  
25          says, "The debtor" -- that's Warehouse 86 --



1 "influenced the final allocation of the  
2 insurance proceeds under the statements of loss  
3 for its benefit and plaintiffs'" -- that's y'all  
4 -- "detriment."

5 Do you know anything about that?

6 A No.

7 Q All right. Sir, I believe at one  
8 point, y'all were still looking for Miriam  
9 Harris' file. Do you know anything about her  
10 file?

11 A I do not.

12 Q Who was she or who is he?

13 A Miriam Harris is an employee with  
14 RadioShack.

15 Q And what is her responsibilities?

16 A I don't know.

17 MR. FREY: Lee, I don't want to  
18 put you on the spot, but was that, at  
19 one time, missing and has it been  
20 found?

21 MR. WATT: I may have not stated  
22 to you accurately in our prior  
23 discussions about that, that item was  
24 included as possible item of documents  
25 in response to your Request for

1 or is protected under the  
2 attorney-client privilege or the  
3 investigation exemption.

4 MR. FREY: What is the  
5 investigation exemption?

6 MR. WATT: Prepared in  
7 anticipation of litigation.

8 MR. FREY: Okay.

9 MR. FREY: (Continuing.)

10 Q Sir, if you wanted to know what was in  
11 the warehouse and damaged and damaged by what,  
12 would you first go to McLarens?

13 A For?

14 Q To find out what was damaged by the  
15 tornado and fire.

16 A Yes. I would go to their report.

17 Q You don't personally know of  
18 individuals other than McLarens that we could  
19 talk to and ask what they saw?

20 A I do not.

21 Q Okay. Do you know whose contractor  
22 set the place on fire?

23 A I don't know whose contractor set it  
24 on fire.

25 Q Okay. All right. Have you now told

1

1 me what you know about this case?

2 MR. WATT: Objection.

3 A Can you --

4 MR. FREY: (Continuing.)

5 Q Yeah. You've told me everything you  
6 personally did, right?

7 A Yes.

8 Q Okay. And you've told me the  
9 company's position as best you know it, right?

10 A Yes.

11 Q Okay. Is there anything else --

12 MR. WATT: Objection.

13 MR. FREY: (Continuing.)

14 Q -- that you know about this case?

15 A No.

16 MR. FREY: Okay. All right.

17 Well, I don't want to take up any more  
18 of your time. I do want to visit with  
19 you because I think we're going to  
20 need to do some more on this. But I  
21 think we're done with you. Thank you  
22 so much.

23 (Off the record.)

24 MR. FREY: Lee, thank you for  
25 visiting with me off the record. It's

1           our view that we need another witness  
2           or witnesses to respond to the topics,  
3           and it's your view that you don't; is  
4           that fair?

5           MR. WATT: That's absolutely our  
6           position.

7           MR. FREY: All right.

8           (Off the record.)

9           MR. WATT: I'd like to make just  
10          two quick points in furtherance of the  
11          disagreement between Mr. Frey and me.  
12          One is that other people to whom  
13          correspondence may have been directed  
14          or was directed or other people who  
15          signed correspondence or documents are  
16          no longer with the company.

17          Next point is --

18          MR. FREY: Before we leave that  
19          and I don't want to put you on the  
20          spot, but do you want to say who they  
21          are or not? You don't have to.

22          MR. WATT: They're just not with  
23          the company.

24          MR. FREY: Okay.

25          MR. WATT: Judy McCampbell signed